

# **EXHIBIT 13**

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

WAYMO LLC, )  
 )  
Plaintiff, )  
 ) Case No.  
vs. ) 3:17-cv-000939-WHA  
 )  
UBER TECHNOLOGIES, INC.; )  
OTTOMOTTO LLC; OTTO TRUCKING, )  
INC., )  
 )  
Defendants. )  
\_\_\_\_\_ )

\*\*\* HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY \*\*\*

VIDEOTAPED DEPOSITION OF SIDNEY MAJALYA

San Francisco, California

Wednesday, December 20, 2017

Volume I

Reported by:

CARLA SOARES  
CSR No. 5908  
Job No. 2779413

Pages 1 - 267

Page 51

1 BY MR. EISEMAN:

10:56:29

2 Q To the extent that you learned about the  
3 use of nonattributable devices at Uber, who did you  
4 have conversations with that provided that  
5 knowledge?

10:56:38

6 MS. DUNN: Objection to form.

7 Actually, David, maybe we should take a  
8 break because I want to figure out if you can get  
9 what you need through an alternative means.

10 MR. EISEMAN: Okay.

10:56:58

11 THE VIDEO OPERATOR: Going off the record.  
12 The time is 10:56 a.m.

13 (Recess, 10:56 a.m. - 11:03 a.m.)

14 THE VIDEO OPERATOR: Back on the record.

15 The time is 11:03 a.m.

11:03:54

16 MS. DUNN: So here's a suggestion: If you  
17 were to ask the witness, yes or no, whether he's  
18 aware of any allegations apart from the allegations  
19 brought by Mr. Jacobs with regard to nonattributable  
20 devices or ephemeral messaging, you would probably  
21 get the answers that you want.

11:04:12

22 BY MR. EISEMAN:

23 Q Separate and apart from the allegations  
24 that Mr. Jacobs has made, are you aware of any  
25 allegations regarding the use of ephemeral

11:04:25

Page 52

1 communications or nonattributable devices at Uber?

11:04:27

2 A No. The reason I'm pausing is because it  
3 was kind of a compound question asking about two  
4 things. But I'm aware of neither.

5 Q You said you received a litigation hold in  
6 this case, correct?

11:04:54

7 A I believe so, yes.

8 Q Do you know if the litigation hold  
9 addressed the issue of ephemeral communications or  
10 nonattributable devices?

11:05:06

11 A I don't know. I don't remember.

12 Q Has Uber discontinued the use of ephemeral  
13 communications as part of its business practices?

14 A I believe a directive has been sent out  
15 to -- instructing everyone at the company not to use  
16 these types of devices or communication methods.

11:05:42

17 Q When was that directive sent?

18 A I don't recall. It would have been  
19 sometime in the last couple of months, I believe.

20 Q Who sent out the directive?

11:06:11

21 A I don't remember. It was either our new  
22 CEO, Dara, or Tony West.

23 Q That was by way of a written communication  
24 to the entire company, correct?

25 A That's my recollection, yes.

11:06:58

Page 54

1 Q Other than those two meetings, have you 11:08:46  
2 had any -- or have you done any work related to ATG?

3 A I don't believe so.

4 Q To your knowledge, has anyone at Uber ever  
5 given instructions on designating documents as 11:09:11  
6 attorney-client privileged that you believe were  
7 inappropriate?

8 MS. DUNN: Objection to form.

9 THE WITNESS: Are you talking about  
10 outside of the allegations in the Jacobs letter? 11:09:34  
11 BY MR. EISEMAN:

12 Q Let me ask a different question.

13 Mr. Majalya, are you aware of anyone at  
14 Uber instructing other Uber employees to designate  
15 documents as privileged that you did not believe 11:09:52  
16 were privileged?

17 MS. DUNN: Objection to form.

18 THE WITNESS: I don't believe I'm aware of  
19 that.

20 BY MR. EISEMAN: 11:10:19

21 Q Are you aware of any situations -- let me  
22 start again.

23 Are you aware of any Uber employees  
24 marking documents as being covered by the  
25 attorney-client privilege where you didn't actually 11:10:29

1 I, the undersigned, a Certified Shorthand  
2 Reporter of the State of California, do hereby  
3 certify:

4 That the foregoing proceedings were taken  
5 before me at the time and place herein set forth;  
6 that any witnesses in the foregoing proceedings,  
7 prior to testifying, were administered an oath; that  
8 a record of the proceedings was made by me using  
9 machine shorthand which was thereafter transcribed  
10 under my direction; that the foregoing transcript is  
11 a true record of the testimony given.

12 Further, that if the foregoing pertains to  
13 the original transcript of a deposition in a Federal  
14 Case, before completion of the proceedings, review  
15 of the transcript [ ] was [X] was not requested.

16 I further certify I am neither financially  
17 interested in the action nor a relative or employee  
18 of any attorney or any party to this action.

19 IN WITNESS WHEREOF, I have this date  
20 subscribed my name.

21 Dated: December 21, 2017

22 

23 CARLA SOARES

24 CSR No. 5908